

AMENDED IN SENATE MARCH 19, 2001

SENATE BILL

No. 40

Introduced by Senator Alarcon

December 5, 2000

An act to amend Sections 1222, 1262, 1275, 1280, and 1327 of, and to add Sections 1262.1 and 1265.1 to, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as amended, Alarcon. Unemployment insurance: benefits: compensation.

(1) Existing law provides that an individual is not eligible for and ~~shall~~ *may* not receive unemployment compensation benefits if the individual left work because of a trade dispute.

This bill would exempt from this ineligibility provision an individual who leaves his or her work because of a trade dispute that is the result of a reduction in wages and benefits that would otherwise be deemed good cause for the individual leaving his or her most recent work. This bill would also provide that unemployment compensation benefits ~~shall~~ *may* not be denied to an otherwise eligible individual who is locked out by his or her employer after having made an unconditional offer to return to work.

(2) Existing law specifies that a person is "unemployed" in any week during which he or she performs no services and with respect to which no wages are payable to him or her.

This bill would require that payments received from an employer, that has failed to provide advance notice of facility closure required by the federal Worker Adjustment Renotification and Training Act, not be

construed to be wages or compensation for personal services for purposes of determination of eligibility for unemployment compensation benefits.

(3) Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins.

This bill would, as specified, revise the calculations for these base periods, and would set forth the base period for any new claim filed on and after January 1, 2002, if an individual has not been paid sufficient wages to establish a benefit year.

The bill would require the Department of Employment Development to request wage information with regard to these new claims, and would assess a penalty of \$250 on an employer who fails to provide this information within 10 days from the requested date.

(4) Under existing law, the weekly unemployment compensation benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount is 39% of those wages divided by 13, but may not exceed \$230.

This bill would, for new claims filed with an effective date after January 1, 2002, specify a weekly benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount of 50% of those wages divided by 13, and would also increase, in accordance with a certain schedule, the maximum weekly benefit to the greater of a specified dollar amount or an amount equal to a specified percentage of the state's average weekly wage for the prior fiscal year.

Because this provision would increase the amount of unemployment compensation paid, it would increase the amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1222 of the Unemployment Insurance*
 2 *Code is amended to read:*
 3 1222. Within 30 days of service of any notice of assessment
 4 or denial of claim for refund or credit under Sections 803, 821,
 5 844, or 991, or of any notice under Sections 704.1, 1035, 1055,



1 1127.5, 1131, 1142, 1143, 1144, 1180, 1184, 1327, 1733, and
2 1735, any employing unit or other person given the notice, or any
3 employing unit affected by a granting or denial of a transfer of
4 reserve account, may file a petition for review or reassessment
5 with an administrative law judge. The administrative law judge
6 may for good cause grant an additional 30 days for the filing of a
7 petition. If a petition for reassessment is not filed within the 30-day
8 period, or within the additional period granted by the
9 administrative law judge, an assessment is final at the expiration
10 of the period. If a petition for review of a termination of elective
11 coverage under Section 704.1 is not filed within the 30-day period,
12 or within the additional period granted by the administrative law
13 judge, the termination is final at the expiration of the period. If the
14 director fails to serve notice of his or her action within 60 days after
15 a claim for refund or credit is filed, the person or employing unit
16 may consider the claim denied and file a petition with an
17 administrative law judge.

18 *SEC. 2.* Section 1262 of the Unemployment Insurance Code
19 is amended to read:

20 1262. An individual is not eligible for unemployment
21 compensation benefits, and no benefits shall be payable to him or
22 her, if he or she left his or her work because of a trade dispute,
23 except that benefits may not be denied to that individual if the trade
24 dispute is the result of a reduction in wages and benefits that would
25 be deemed good cause under this article for an individual leaving
26 his or her most recent work. An ineligible individual under this
27 section shall remain ineligible for the period during which he or
28 she continues out of work by reason of the fact that the trade
29 dispute is still in active progress in the establishment in which he
30 or she was employed.

31 ~~SEC. 2.—~~

32 *SEC. 3.* Section 1262.1 is added to the Unemployment
33 Insurance Code, to read:

34 1262.1. Notwithstanding Section 1262, unemployment
35 compensation benefits may not be denied to an otherwise eligible
36 individual who is locked out by his or her employer after having
37 made an unconditional offer to return to work.

38 ~~SEC. 3.—~~

39 *SEC. 4.* Section 1265.1 is added to the Unemployment
40 Insurance Code, to read:

1 1265.1. Notwithstanding any other provision of this division,
2 payments to an individual by an employer who has failed to
3 provide the advance notice of facility closure required by the
4 federal Worker Adjustment Renotification and Training (WARN)
5 Act (29 U.S.C. Sec. 1201 et seq.) shall not be construed to be
6 wages or compensation for personal services under this division,
7 and benefits payable under this division ~~shall~~ may not be denied
8 or reduced because of the receipt of payments related in any way
9 to an employer's violation of the WARN Act.

10 ~~SEC. 4.—~~

11 *SEC. 5.* Section 1275 of the Unemployment Insurance Code
12 is amended to read:

13 1275. (a) Unemployment compensation benefit award
14 computations shall be based on wages paid in the base period.
15 "Base period" means: for benefit years beginning in October,
16 November, or December, the four calendar quarters ended in the
17 next preceding month of June; for benefit years beginning in
18 January, February, or March, the four calendar quarters ended in
19 the next preceding month of September; for benefit years
20 beginning in April, May, or June, the four calendar quarters ended
21 in the next preceding month of December; for benefit years
22 beginning in July, August, or September, the four calendar
23 quarters ended with the next preceding month of March. Wages
24 used in the determination of benefits payable to an individual
25 during any benefit year may not be used in determining that
26 individual's benefits in any subsequent benefit year.

27 (b) For any new claim filed with an effective date on or after
28 January 1, 2002, if an individual has not been paid sufficient wages
29 in the first four of the last five completed calendar quarters to
30 entitle the individual to establish a benefit year, then "base period"
31 means the most recent 52 weeks before the first day of the
32 individual's benefit year as defined in Section 1276. Each quarter
33 of this base period shall consist of four consecutive 13-week
34 periods. As provided in Section 1280, the quarter with the highest
35 wages shall be used to determine the individual's weekly benefit
36 amount.

37 ~~SEC. 5.—~~

38 *SEC. 6.* Section 1280 of the Unemployment Insurance Code
39 is amended to read:

1280. (a) For any new claims filed with an effective date on or after January 1, 1992, and prior to January 1, 2002, an individual's weekly benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A that contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

A Amount of wages in highest quarter	B Weekly benefit amount
\$900.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50
1,222.00–1,247.99	51
1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57
1,430.00–1,455.99	58
1,456.00–1,494.99	59
1,495.00–1,520.99	60
1,521.00–1,546.99	61
1,547.00–1,585.99	62
1,586.00–1,611.99	63
1,612.00–1,637.99	64
1,638.00–1,676.99	65
1,677.00–1,702.99	66
1,703.00–1,741.99	67
1,742.00–1,767.99	68

1	1,768.00–1,806.99	69
2	1,807.00–1,832.99	70
3	1,833.00–1,871.99	71
4	1,872.00–1,897.99	72
5	1,898.00–1,936.99	73
6	1,937.00–1,975.99	74
7	1,976.00–2,001.99	75
8	2,002.00–2,040.99	76
9	2,041.00–2,066.99	77
10	2,067.00–2,105.99	78
11	2,106.00–2,144.99	79
12	2,145.00–2,170.99	80
13	2,171.00–2,209.99	81
14	2,210.00–2,248.99	82
15	2,249.00–2,287.99	83
16	2,288.00–2,326.99	84
17	2,327.00–2,352.99	85
18	2,353.00–2,391.99	86
19	2,392.00–2,430.99	87
20	2,431.00–2,469.99	88
21	2,470.00–2,508.99	89
22	2,509.00–2,547.99	90
23	2,548.00–2,586.99	91
24	2,587.00–2,625.99	92
25	2,626.00–2,664.99	93
26	2,665.00–2,703.99	94
27	2,704.00–2,742.99	95
28	2,743.00–2,781.99	96
29	2,782.00–2,820.99	97
30	2,821.00–2,859.99	98
31	2,860.00–2,898.99	99
32	2,899.00–2,937.99	100
33	2,938.00–2,989.99	101
34	2,990.00–3,028.99	102
35	3,029.00–3,067.99	103
36	3,068.00–3,106.99	104
37	3,107.00–3,158.99	105
38	3,159.00–3,197.99	106
39	3,198.00–3,236.99	107



1	3,237.00–3,288.99	108
2	3,289.00–3,327.99	109
3	3,328.00–3,379.99	110
4	3,380.00–3,418.99	111
5	3,419.00–3,470.99	112
6	3,471.00–3,509.99	113
7	3,510.00–3,561.99	114
8	3,562.00–3,600.99	115
9	3,601.00–3,652.99	116
10	3,653.00–3,704.99	117
11	3,705.00–3,743.99	118
12	3,744.00–3,795.99	119
13	3,796.00–3,847.99	120
14	3,848.00–3,899.99	121
15	3,900.00–3,938.99	122
16	3,939.00–3,990.99	123
17	3,991.00–4,042.99	124
18	4,043.00–4,079.99	125
19	4,080.00–4,116.99	126
20	4,117.00–4,153.99	127
21	4,154.00–4,190.99	128
22	4,191.00–4,227.99	129
23	4,228.00–4,264.99	130
24	4,265.00–4,301.99	131
25	4,302.00–4,338.99	132
26	4,339.00–4,375.99	133
27	4,376.00–4,412.99	134
28	4,413.00–4,449.99	135
29	4,450.00–4,486.99	136
30	4,487.00–4,523.99	137
31	4,524.00–4,560.99	138
32	4,561.00–4,597.99	139
33	4,598.00–4,634.99	140
34	4,635.00–4,671.99	141
35	4,672.00–4,708.99	142
36	4,709.00–4,745.99	143
37	4,746.00–4,782.99	144
38	4,783.00–4,819.99	145
39	4,820.00–4,856.99	146



1	4,857.00–4,893.99	147
2	4,894.00–4,930.99	148
3	4,931.00–4,966.99	149

4
5 If the amount of wages paid an individual for employment by
6 employers exceeds four thousand nine hundred sixty-six dollars
7 and ninety-nine cents (\$4,966.99) in the quarter of his or her base
8 period in which these wages were highest, the individual's weekly
9 benefit amount shall be 39 percent of these wages divided by 13,
10 but in no case shall this amount exceed two hundred thirty dollars
11 (\$230). If the benefit payable under this subdivision is not a
12 multiple of one dollar (\$1), it shall be computed to the next higher
13 multiple of one dollar (\$1).

14 (b) For new claims filed with an effective date beginning on or
15 after January 1, 2002, an individual's weekly benefit amount is the
16 amount appearing in column B in the following table opposite that
17 wage bracket in column A that contains the amount of wages paid
18 to the individual for employment by employers during the quarter
19 of his or her base period in which his or her wages were the highest.

21	A	B
22	Amount of wages in	Weekly benefit
23	highest quarter	amount
24	\$900.00– 948.99	40
25	949.00– 974.99	41
26	975.00–1,000.99	42
27	1,001.00–1,026.99	43
28	1,027.00–1,052.99	44
29	1,053.00–1,078.99	45
30	1,079.00–1,117.99	46
31	1,118.00–1,143.99	47
32	1,144.00–1,169.99	48
33	1,170.00–1,195.99	49
34	1,196.00–1,221.99	50
35	1,222.00–1,247.99	51
36	1,248.00–1,286.99	52
37	1,287.00–1,312.99	53
38	1,313.00–1,338.99	54
39	1,339.00–1,364.99	55
40	1,365.00–1,403.99	56

1	1,404.00–1,429.99	57
2	1,430.00–1,455.99	58
3	1,456.00–1,494.99	59
4	1,495.00–1,520.99	60
5	1,521.00–1,546.99	61
6	1,547.00–1,585.99	62
7	1,586.00–1,611.99	63
8	1,612.00–1,637.99	64
9	1,638.00–1,676.99	65
10	1,677.00–1,702.99	66
11	1,703.00–1,741.99	67
12	1,742.00–1,767.99	68
13	1,768.00–1,806.99	69
14	1,807.00–1,832.99	70

15

16 If the amount of wages paid an individual for employment by
 17 employers exceeds one thousand eight hundred thirty-two dollars
 18 and ninety-nine cents (\$1,832.99) in the quarter of his or her base
 19 period in which these wages were highest, the individual's weekly
 20 benefit amount shall be 50 percent of these wages divided by 13,
 21 but in no case shall this amount exceed the applicable of the
 22 following:

23 (1) For new claims filed with an effective date beginning on or
 24 after January 1, 2002, and before January 1, 2003, three hundred
 25 dollars (\$300), or 45 percent of the state's average weekly wage
 26 for the prior fiscal year, whichever is greater.

27 (2) For new claims filed with an effective date beginning on or
 28 after January 1, 2003, and before January 1, 2004, three hundred
 29 forty dollars (\$340) or 50 percent of the state's average weekly
 30 wage for the prior fiscal year, whichever is greater.

31 (3) For new claims filed with an effective date beginning on or
 32 after January 1, 2004, three hundred eighty dollars (\$380) or 50
 33 percent of the state's average weekly wage for the prior fiscal year,
 34 whichever is greater.

35 If the benefit payable under this subdivision is not a multiple of
 36 one dollar (\$1), it shall be computed to the next higher multiple of
 37 one dollar (\$1).

38 ~~SEC. 6.—~~

39 *SEC. 7.* Section 1327 of the Unemployment Insurance Code
 40 is amended to read:



1 1327. (a) The department shall give a notice of the filing of
2 a new or additional claim to the employing unit by which the
3 claimant was last employed immediately preceding the filing of
4 the claim unless the additional claim is the result of the filing of
5 a partial claim as defined by the department, there has not been a
6 subsequent employing unit which is designated as the last
7 employer, and there is no separation issue. The employing unit so
8 notified shall submit within 10 days after the mailing of the notice
9 any facts then known that may affect the claimant's eligibility for
10 benefits, including, but not limited to, facts pertaining to eligibility
11 under Section 1256. The 10-day period may be extended for good
12 cause. If after the 10-day period the employing unit acquires
13 knowledge of facts that may affect the eligibility of the claimant
14 and facts could not reasonably have been known within the period,
15 the employing unit shall, within 10 days of acquiring the
16 knowledge, submit the facts to the department, and the 10-day
17 period may also be extended for good cause.

18 (b) Upon the filing of a new claim for benefits, if an individual
19 is entitled under subdivision (b) of Section 1275 to establish a
20 claim using a base period of the ~~last four completed calendar~~
21 ~~quarters~~ *most recent 52 weeks* before the first day of the
22 individual's benefit year, the department shall request wage
23 information covering the quarters, as defined in subdivision (b) of
24 Section 1275. The wage information shall be used by the
25 department to promptly make a computation on the claim as
26 provided in Section 1329. If an employer fails to provide wage
27 information to the department within 10 days from the requested
28 date, the employer shall be assessed a penalty of two hundred fifty
29 dollars (\$250). The provisions of this article, Article 9
30 (commencing with Section 1176) of Chapter 4, with respect to
31 refunds, and Chapter 7 (commencing with Section 1701), with
32 respect to collections, apply to the assessments provided by this
33 section. Penalties collected under this section shall be deposited in
34 the Contingent Fund.

